

3 1761 116537127

CA20N
Z1

-77N22 C.2

Rec'd
Dec. 2/82

HS
112

SUBMISSION TO THE
Royal Commission On The Northern Environment
On The Impacts
Of The
Cochrane District Land Use Plan
As Proposed By The
Ministry of Natural Resources

Brief Prepared By The
New Post Band # 69
DATE: December 1, 1982.

Submission to the Royal Commission on the
Northern Environment by the New Post Band No. 69.

Introduction:

This submission has been prepared by the New Post Band No.69 in fulfillment of an agreement between the Royal Commission on the Northern Environment and the Band. The New Post Band Council has attempted to facilitate the work of the Royal Commission by addressing the subject matter of the inquiry as outlined in the Order in Council of July 13, 1977: " to inquire into any beneficial and adverse effects on the environment... of any public or private enterprise," and "to inquire into the methods that should be used in the future to assess, evaluate and make decisions concerning the effects on the environment of such major enterprises. "(O.C. 1900/77 13th. July. 1977, P.2)

Project Description:

The New Post Band has formulated the following project objectives:

- 1) To understand the Cochrane District Land Use Plan and its implications for local and traditional users and to understand the proposed nature of the ongoing planning process;
- 2) To state concerns with the plan and specify conflicts between the views of the Band and the proposal options for the use and development of land in the Cochrane District;
- 3) To state the concerns of the Band regarding the future development of the area and the role that the original people wish to play in both traditional and non-traditional resource land use and development;
- 4) To recommend amendment to the decision making process that would allow the original people greater participation and input into the future of the area. The project has involved a review of documents related to the Cochrane District Plan, a discussion and survey of membership opinion concluded at a general

band seminar, and a compilation and analysis of the fundings of both.

Local and Traditional Users (Participation)

The Ontario Ministry of Natural Resources has stated that it will " actively involve local people and traditional resource users in the preparation of its land use plans. The public participation program will emphasize the identification and consideration of the needs and wants of this group as a priority.... Native people living in North-eastern Ontario are among the local and traditional users of certain natural resources. When plans are being prepared the urgent need to communicate effectively with the people must be recognized."

(Northeastern Ontario Strategic Land Use Plan, April 1982, P 9.)

The people of the New Post Band are the original occupants of much of the area covered by the Cochrane District Land Use Plan; their Reserve and their traditional lands are located near the center of the Cochrane Planning Area. Though, the population of the New Post Band is small in relation to the total population of the Cochrane District, the interest of the New Post people in the land is not proportionally diminished. The Strategic Land Use Plan for Northeastern Ontario recognizes this and states that the resource rights of Treaty Indians will be one of the four priorities guiding the allocation of resources within the Region. Nevertheless, the Cochrane District Land Use Plan implies that the resource rights of the New Post people are limited to the area within the boundaries of the Reserve. The recognition of the existence of a Status Indian presence in the planning area is largely confined to a statement that the development of the New Post Reserve's resources should be compatible with the management of surrounding Crown Lands. There is no suggestion that, perhaps, the surrounding Crown Lands ought to be managed in a manner compatible with the future of the New Post people so that traditional rights to

certain resources are safeguarded. There is no suggestion that the needs and wants of the New Post people have been given priority.

The membership of the New Post Band was manifestly not consulted during the plan making process and remained vertically unaware of the existence of the plan until an 11th hour invitation to attend an open house to comment on the proposed policy and plan options. The Band rejected this after the fact approach to consultation and refused to participate in any process that reduced this special status as original inhabitants to the same level as the public at large.

Obviously, there is a disparity between the local and traditional user policy and the application of that policy at the District level. This gap may result from a complex of factors, or it may result from simple oversight. It may be that the District level planning process cannot reasonably be expected to reconcile the conflict inherent in the linking of priorities at the Regional level:

" The allocation of the Region's fish and wildlife resources will be guided by the following priorities:

- 1) Maintenance and/or rehabilitation of the resource,
- 2) the resource rights of Treaty Indians,
- 3) recreational benefits to the residents of Ontario, and
- 4) the greatest economic benefits to Ontario."

(Northeastern Ontario Strategic Land Use Plan, April 1982, P. 9.).

It maybe that the District level planning process has been influenced by the ambiguous status accorded Indian Rights in the Regional document:

" the existing Treaty and Aboriginal rights as referenced in the Canadian Constitution will be further defined at future Constitutional Conferences."

(Northeastern Ontario Strategic Land Use Plan)

Such Constitutional change is purely speculative and there is no

reasonable expectation that Ontario will be supportive of changes that elaborate Treaty and aboriginal rights. Indeed the ongoing abrogation of existing rights may render future change meaningless.

It is the intention of the New Post Band to make such recommendations for change as can be initiated within the context of current legal and governmental processes, without predjudice to future Constitutional discussions.

The Royal Commission in its report, the Road to Detour Lake, states that its task is to " explore various means of ensuring that Northerners are involved in decision-making on issues that effect them."

The Ministry of Natural resources, on its side, has stated that " the application of local and traditional user policy maybe modified in response to the recommendations of the Royal Commission on the Northern Environment."

The New Post Band releives that, if suggestions for change are received with trust and imagination, the Indian people may once again become full and active participants in the future of the land that has always been their homeland.

The New Post Band

The population of the New Post Band is approximately seventy-two persons. Every present Band member belongs to either the Archibald or Sutherland family. The New Post Indian Reserve has never been accupied and there is no "on-reserve" population. Over the years the absence of a home community has caused the people of the Band to become dispersed throughout the North; the alarge part of the Band however, still lives in the Cochrane area.

The administration of the New Post Band falls within the James Bay District of the Department of Indian Affairs, Ontario Region. The New Post Band is a member of the James Bay Tribal Council along with the Indian communities of the Ontario portion of the Hudson's James Bay coast, (with the exception of fort Severn which is affiliated

5

with the Kayanha Tribal Council.)

On the national and international level of political interaction the Band is represented by the Band Council of Treaty #9-the Nishnawbe/Aski Nation.

By reason of the membership's off-reserve residence status, the Band has not been the recipient of many of the Federal programs normally received by the Status Indian population of Ontario.

Recently, the band has begun to receive funds for organizational purposes which have enabled the membership to come together for regular general meetings. The focus of the several Band meetings that have been held, has been the acquisition of a site for a "home community." The location of the present unoccupied reserve does not favor the development of a new townsite. Remoteness, lack of access and the complex lack of infrastructure have all been considered as factors is prompting the Band to look elsewhere for a suitable home community site.

The New Post Band members have continued to utilize the resources of the land around their present reserve but no one has yet taken up full time residence on the reserve. Island Falls was the community location for the Band membership up until the early 1960's. Perhaps, the location of the designated reserve was less than satisfactory as a site for a community. The Treaty commissioners describe the site of the Hudson's Bay Company's New Post, which was the locus of the Bands activities, as being on "a beautiful bend of the Abitibi River and commands an excellent hunting country." Of course, in the days before road and rail, rivers provided the means of transportation and communication the Hudson's Bay Company had given much thought to the location of their 'New' Post.

Why then did the New Post Indian people choose a reserve site some "eight miles inland from New Post" situated so that the reserve did not touch on with New Post Creek or on the Abitibi River? In fact they had no choice since an agreement between Ontario and Canada had

already stipulated that "no site suitable for development of water-power exceeding 500 horse-power shall be included within the boundaries of any reserve." (Agreement Between the Dominion of Canada and the Province of Ontario, July 3, 1905.)

By coincidence, the site of one of the few reserves never to be occupied is adjacent to the site of the Abitibi Canyon Generating Station. Which was at one time the largest instalation in the Province; today the only road access approaching the reserve is across the power dam.

The Nishnawbe/Aski: The people and the Land

New Post Band members are part of a larger community known as the Nishnawbe Aski- the Ojibway and Cree people of what is now Northern Ontario. In Ojibway, the word Nishnawbe means the People; in Cree the word Aski means the land. Together the words symbolize the unity of man and the land. The Nishnawbe Aski did not beleive that man could own the land anymore than man could own the sky. Man could share the land with other creatures; man could move across the land to hunt, trap and fish. With the passage of time, families or groups of people could come to be associated with a particular area. Certain lands could come to be known to them as the traditional area occupied by a particular group of people. Affiliated groups of people would in turn recognize the right of each group to enjoy the use of certain lands; together the common rights of all the people amounted to sovereignty- that is - the right of the Nishnawbe Aski to occupy the land as Sovereign People. Still, the concept of sovereignty cannot be equated with the concept of ownership of property. The land belonged to the Nishnawbe Aski in the same way that Britain belongs to the British. The land could no more be sold than sovereignty itself could be sold. The attitude of the encroaching society was, of course, quite different.

New Post and the Treaty

On August 21, 1905 the James Bay Treaty, or Treaty No. 9 was signed at New Post by Anges Weenusk, John Luke and William Gull on

behalf of the people of New Post. Genealogical reserch by the New Post Band shows that these three men left no progeny and none of the present membership is descended from them.

" For one week we were engaged with the strong rapids of the Moose and Abitibi River, and did not reach New Post, our next point of call until 12:30 on Saturday, the 19th. New Post is a small and comparatively unimportant post of the Hudson's Bay Company. It is situated on a beautiful bend of the Abitibi River, and commands an excellent hunting country. The post is in charge of Mr. S. B. Barrett, and nowhere was the commission received with greater consideration and hospitality than at this place. The New Post Indians, although few in number, are of excellent character and disposition. They met us with great friendliness. The treaty was concluded on Monday, the 21st, and the Indians were at once paid. The reserve question was also discussed, and the location finally fixed as shown on the schedule of reserves. One of the leading Indians, Esau Omakess, was absent from the reserve during the negotiation. He, however, arrived during the time the payments were being made, and signified his approval of the action being taken by his fellow Indians. He was subsequently chosen unanimously as chief of the Band."

(Scott, Stewart and MacMartin, The James Bay Treaty, Queens Printer, Ottawa, 1964, P 10.)

Accordingly, the Band was allocated a reserve of 8 square miles which followed from the Treaty formula of 1 square mile per family of five. From the Schedule of Reserves appended to the James Bay Treaty the description of the New Post Reserve lands is as follows:

"In the province of Ontario, beginning at a point one mile south of the lake known as Taquahtagama, or Big Lake, situated about eight miles inland south from New Post on the Abitibi River, thence in a northerly direction about four miles, and of sufficient depth in an easterly direction to give an area of eight square miles."

(James Bay Treaty P 12.)

In addition to this land area each Indian was to be made a present of eight dollars "with a view to show the satisfaction of His Majesty with the behavior and good conduct of His Indians"

Altogether, some ninety thousand square miles of territory were deemed to have been ceded to the Crown by the Nishnawbe Aski. Many opinions have been offered as to the validity of the Treaty but to this report to enter into the intricate legal territory surrounding the interpretation of the Treaty and Aboriginal rights or comment on the validity of the Treaty.

Nevertheless, since the subject matter of this report concerns land use and the New Post Indian people certain basic questions must be addressed.

It is clear that Indians were not expected to live and survive from the fruits of the land within their reserve. In the report to the Superintendant General of Indian Affairs, Messrs Scott, Stewart and MacMartin, the three Treaty Commissioners state that " it is doubtful whether the Indians will ever engage in agriculture, these reserves, being of a reasonable size will give a secure and permanent interest in the land which the indeterminate possession of a large tract could never carry".(J.B.T. Pg.11) It should be further noted that Treaty No. 9 had no provision as did other numbered Treaties:

" Beginning with Treaty No. 3 and expecting only Treaties Nos. 9 and 10, additional provisions were included for supplies intended to help Indians utilize their lands" (Peter Cumming and Neil Micherberg(ed), Native Rights in Canada, Toronto, 1972, Pg. 125)

Treaty 3 contained provisions for the supply of farm implements animals and seeds " to be given once and for all for the encouragement of the practice of agriculture among Indians." (Native Rights Pg. 316)

If agriculture was not foreseen as a means of support and, self sufficiency it must have been intended that a much larger area of land would provide the means of support through traditional pursuits such as hunting, fishing

and trapping. Indeed the Treaty No. 9 states that "His Majesty the King hereby agrees with the said Indians that they shall have the right to pursue their usual vocations of hunting, trapping and fishing throughout the tract surrendered...". James Bay Treaty, Pg.20)

In legal terms these rights can be termed usufructory rights- *jus fructi*-the right to enjoy the fruits of the land. Immediately, upon being affirmed in one breath these rights are qualified in the next, "saving and excepting such tracts as may be required or taken up from time to time for settlement, mining, lumbering, trading or other purposes."

Literally interpreted, this qualification could allow land to "taken up" to the extent that any rights that were recognized, would effectively be eliminated. surely, this could not have been the intention of the Treaty Commissioners. It was certainly not the interpretation of the signatories to the Treaty: " Missaby, the recognized chief of the band, then spoke, expressing the fears of the Indians that, if they signed the treaty, they would be compelled to reside upon the reserve to be set apart for them, and would be deprived of the fishing and hunting privileges which they now enjoy. On being informed that their fears in regard to both these matters were groundless, as their present manner of making their livelihood would in no way be interfered with," they signed the Treaty. (James Bay Treaty, Pg.5) Again, at Fort Hope the Treaty Commissioners explained to the people that "hunting and fishing, in which occupations they were not to be interfered with, should for very many years prove lucrative sources of revenue." (James Bay Treaty P6) The oral promises made at the time of the Treaty signing support the view that the qualification "saving and excepting such tracts as may be ... taken up from time" should not be construed as allowing the unlimited use of land for other purposes. If the land was to provide a lucrative source of revenue then either the right to take up land was

a limited right, either temporally or spacially, or the Indian people have a right to compensation.

This aspect of the Treaty has a direct relevance to Land Use Planning, and land management. While the Treaty does not exclusively reserve the right to hunt, trap and fish to the Indian people, neither does it convey to the Crown the unlimited power to abrogate that right. It follows, then, that both parties have a share in the rights to certain 'ceded' lands. The right to hunt, fish and trap within ceded lands not 'taken up' amounts to a restrictive covenant running with the ceded land. Implicit in this covenant is the notion that there be moose to hunt, fish to fish and beaver to trap. The existance of game, fish, and furbearers is dependant upon the extent to which non-Indians harvest them the extent to which a suitable habitat is maintained and not destroyed by forestry and mining. In addition, the establishment of Provincial Park or game preserves may also allow the Province to prohibit their activities. The New Post Band submits, therefore, that they have direct interest in the terms and conditions governing various land use activities Land Use Planning and Plan implementation activities may have serious consequences for the rights of the New Post People.

The designation of an area for a Waterway Park and the consequent production of a Parks Master Plan may have the effect of 'taking up land for other purposes.' This has been the effect of Provincial Park staus in other areas. It is not acceptable that the right to hunt, fish and trap over an area can be taken away by the stroke of a pen and then conditionally returned as a privilege, pending the results of the Parks Planning process.

Similarly, forestry has in the past been viewed as a temporal activity that constituted the taking up of land for the period of time during which forestry operations were actually carried out. Now, however, the forest industry is being required to shift from an approach that could be characterized as limited in time that is cut the trees

and move along to an approach that more closely resembles that of the farmer, albeit a tree farmer. No longer will forestry be seen as a short term activity. Rather, it will be an activity that continues throughout the life cycle of the crop from cutting through to the regeneration of the next crop. It is possible that land will be considered to be 'taken up' for an unlimited time period. The new system of managing the forests through Forest Management Agreements between private industry and government may have the effect of abrogating Treaty rights over vast tracts of land. Surely, this was not the intention of the Treaty. If indeed lands designated for Parks, Forestry and other purposes are to be considered occupied, then the New Post Reserve becomes ghettoized; present rights are conveniently turned into privileges.

Implicit, then, in the notion of a restrictive covenant is the agreement that the "taking up" of ceded lands not be such as to destroy or vitiate the right to hunt, trap and fish.

Summary

Altogether, the 1905-1906 Treaty signing expedition managed to secure for the Province some 90,000 square miles of territory in exchange for "secured" reserves of one square mile for family of five.

It seems clear from the notes of the Treaty Commissioners and from the records of the Province and the Dominion that the immanent development of "New Ontario" required urgent action to clarify the title to the land of the north. From references to promises made not to molest new comers engaged in hunting, mining, and forestry and other pursuits, it seems that both government were clearly desirous of establishing 'peace and friendship' in the face of the impending onslaught of settlement. The Treaty commissioners reported that "as we ascended the Abitibi, evidence of approaching civilization and of railway construction and surveying, which had rendered the making of the treaty necessary, were constantly met with."

17
(James Bay Treaty Pg. 9)

the Indian people on their side, also seemed concerned that some formal recognition of their rights be concluded before settlement proceeded further. At a meeting with Duncan Campbell Scott in 1899, Indians from the Hudson's/ James Bay area stated that " they heard that the railroads were projected through their country, and that already mining prospectors, and surveyors were beginning to pass through it [in] such largely increased numbers that the game was disturbed, interference with their means of livelihood had commenced, and their right were being trespassed upon.

(Macrae to Sifton, June 3, 1901, Public Archives of Canada, Record Group 10 volume 3033 file 235,225-)

The New Post Indian Band received approximately \$320.00 for the cession of what Scott described as a "vast quantity of waste and, at present unproductive land." (James Bay Treaty Pg. 11.) A scant 5 years latter the same land was being sold by the Government of Ontario at the rate of nearly \$10,000.00 per township. " by 1900 the area immediately surrounding Cochrane had been taken up. ... Lots available to these early settlers were 150 acres in size and for the most part were well covered with merchantable timber. The land was sold at 50¢ per acre, the settlers undertaking to perform homestead duties to obtain a patent." (The Black meyer Report of multiple Land Use Planning, Ontario Dept. of land and Forests, Queen's Park, 1960, Pg. 49.)

Altogether, for the same townships which the New Post Band considers its primary traditional land area, the Government of Ontario, by its own actions established a base value of some \$300,000.00 at 1910 levels, exclude, of course, of the value of timber, mineral and water power.

Judged by the results, the James Bay Treaty can be viewed as a great success or a failure. The Nishnawbe Aski are nearly unanimous in holding the later view.

Nevertheless, the Treaty provisions regarding the establishment

of peace and friendship between the two societies has yet to be overly breached. Certainly, "the taking up of land for development" provisions of the Treaty have yielded steady dividends: "the minerals and forests of the north became an important component in the continuing economic development of the south. In particular, Toronto's growth as a financial centre, rivalling Montreal, derived from its control of northern resources. ... In the North, a new community emerged, supplementary to the south and dominated by it."

(R.L. Gentilcore Ch., Studies in Geography: Ontario, university of Toronto Press, 1972, Pg. 44.)

New Post Band's Concerns

At the general band meeting held in Cochrane on October 15, 16 and 17 of this year, the Band membership reviewed some of the basic implications of the Cochrane District Land Use Plan. The context and scope of Land Use Planning in the Province and the role of the Cochrane District Land Use Plan was outlined. The land use designations, priority land uses for each designated areas and the nature of secondary instruments governing primary and secondary uses was presented.

The membership was asked to respond to a questionnaire directed at establishing a spatial expression of the band concern area. Either individually or in small groups the membership was asked to mark on a topographical map the extent of the land area considered by the individual group to be traditional hunting lands or lands considered to be of prime concern to present members. On this map, members were to mark areas of special significance such as burial grounds, hunting grounds and so on. During subsequent discussions at the band seminar, individual band members further expressed their concerns.

The Concern Area

The New Post Band has identified its area of primary concern, as roughly the area south and east from the junction of the New Post Creek and the Abitibi River, roughly bounded on the west by the Abitibi

River, and on the east by the New Post Creek/Little Abitibi River to an eastwest line some 36 miles south. The area delineated by the membership includes all of the 12 geographical townships of Pinard, Mewhinney, Mound, Avon, Bourassa, McAlpine, Homuth, Tolmie, Agassiz, Adanac, Menapia, and Ireland. (See map A)

This area contains parts of 4 designated areas in the Cochrane district Land Use Plan. The greater part of the concern area falls within the area designated as the Northern Resources and commercial recreation Area: Area 10 in option one and area 8 in option two.

The two rivers roughly bounding the area are designated as the Little Abitibi/New Post Creek water way Park. (area 12 in option one and area 10 in option two) and the Abitibi, Fredrickhouse, Driftwood and Onakawana Rivers (area 6 in option one and area 8 in option two.)

Finally, the Western extent of the Band's concern area, which lies on the west side of the Abitibi and on the east side in parts of Menapia and Ireland Townships, is designated as the Southern Resource Area (area 9 in option one and area 7 in option 2).

AREA DESIGNATED	PRIMARY USES	2=SECONDARY USES PERMITTED WITH CONDITIONS	STATED CONDITIONS
Northern resource and Commercial Recreation Area (Option 1=area 10) (Option 2=area 8)	Mining Forestry Commercial Recreation	Mining(1)	Operating Guidelines, Licences, Permits
		Forestry(1)	Operating Plans, Guidelines for the Protection of Other Values
		Aggregate (2)	Quarry and Work Permits
		Trapping(2)	Expand to Quota (no guidelines)
		Wildlife Hunting Viewing (2)	Habitat Management Plans for High Value Areas & Caribou Habitat
		Roads(2)	Guidelines for Permanent Access Roads & Shoreline Reserves
		Commercial Tourism(1)	Permitted on Designated Lakes, Existing Uses Can Continue
<hr/>			
Southern Resource Area (Option 1= area 9) (Option 2= area 7)	forestry Mining	Mining(1)	Operating Guidelines, Permits, Licences, - Shoreline reserve of 122 metres (maybe)
		Rural Residential(2)	According to Official Plans
		Aggregate (2)	Operating guidelines in Permits, - not permitted within 122 M of designated cottage or commercial lakes
		forestry(1)	Operating Fluidelines will be contained in approved operating Plans for the protection of other values,
		Trapping (2)	Encouraged to expand to quota levels, - no cabins on cottaging or tourism lakes,
		Wildlife Hunting(2) Viewing,	Management Plans MAY be formulated for specific HIGH VALUE areas
		Sport Fishing(2)	Regulated through Management Plans
		Commercial Fishing (2)	licences
		Crown Land Recreation (2)	Minor access permitted along with Cottaging Plans
		Cottaging (2)	Crown Land Shoreline Cottaging <u>encouraged</u> on designated lakes,
		commercial Tourism(2)	Existing Use to Continue
		Roads (2)	Resource and recreation roads will be Permitted Guidelines concerning Permanent Road Access and Shoreline Reserves

[illegible]

1=PRIMARY
2=SECONDARY
USES PERMITTED
WITH CONDITIONS

AREA DESIGNATED

PRIMARY USES

STATED CONDITIONS

Middle Detour
Lake Corridor
area
Option 1 = area 3
Option 2 =

recreation
cottaging

mining (2)

-operating guidelines
will be in licences
and permits
- may be permitted
along shoreline

aggregate(2)

encouraged, no guidelines, may be permitted
along shoreline.

Forestry (2)

approved operating plans will combine
specific guidelines for protection of high
value areas (moose winter areas will be
subject to modified cutting practise)

Trapping (2)

expand to quota level
no cabins on certain lakes

wildlife hunting
and Viewing (1)

management plans may be formulated for high
value areas.

Sport Fishing (1)

managed by reviews of development proposals

Commercial
Fishing (2)

regulated through
licences

Crown Land
Recreation(1)

public access will be constructed along
Detour Lake highway.

Cottaging

remote and submission cottages will be
encouraged on lakes with approved operating
plans.
not permitted on other lakes.

Commercial tourism

encouraged on designated lakes.

Roads

existing guidelines

Great Claybelt
Agricultural
areas.

agriculture

urban (2)

municipal planning
controls

rural residential(2)

only in association with farming

agricultural (1)

land cleared crown land will be made available

mining (2)

encouraged with operating guidelines in
licences

aggregate (2)

encouraged municipal planning controls,
minimum disruption of agricultural land

Forestry (2)

encouraged, operating plans will contain
guidelines for protection of other values.

Trapping (2)

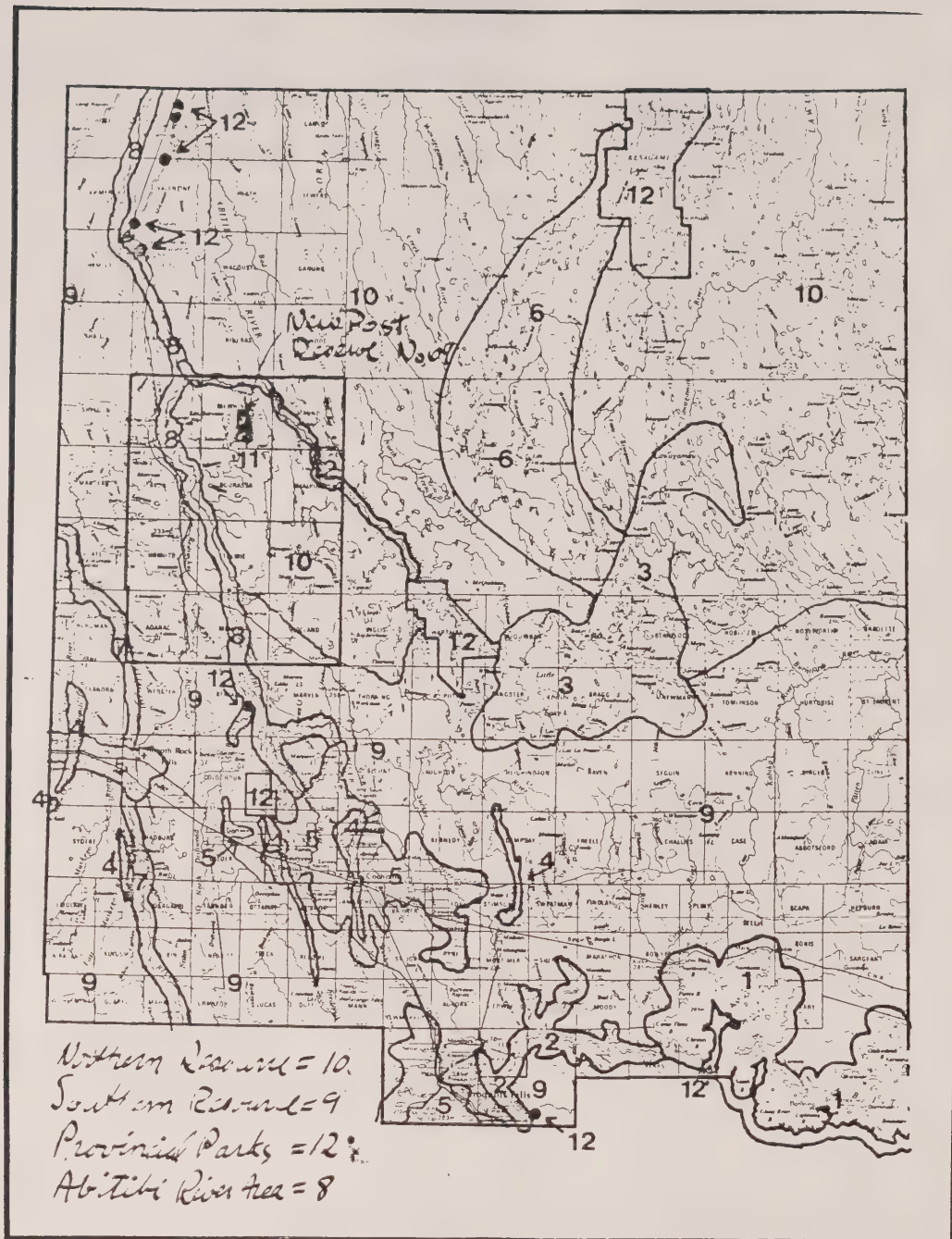
expand to quota, no cabins on crown land

Wildlife hunting
Viewing (2)

habitable management plans for high value
areas.

Option 1 = area 5
Option 2 =

AREA DESIGNATED	PRIMARY USES	1=PRIMARY	
		2=SECONDARY	
		USES PERMITTED	
		WITH CONDITIONS	STATED CONDITIONS
(Continued)		Sport fishing (2)	development will be reviewed to protect fishing.
		commercial fishing(2)	managed through licensing
		Cottaging (2)	lake and river plans
		commercial Tourism	permitted on Crown land as long as there is no impact on farms.
		Roads	Should locate along property boundaries.



DISTRICT DE COCHRANE DISTRICT



Miles 0 10 20
Kilometers 0 10 20

LEGEND/LÉGENDE

OPTION 1



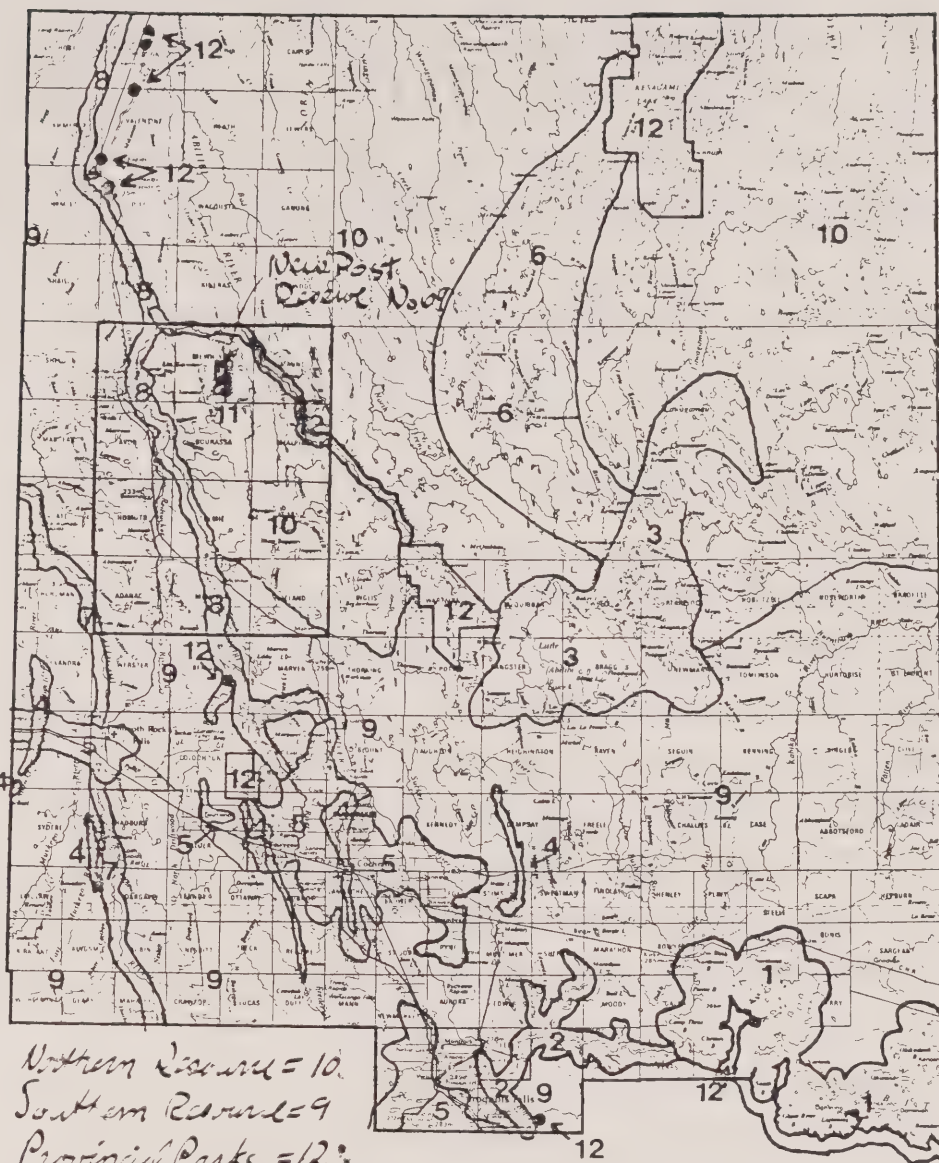
1

AREA BOUNDARY

AREA NUMBER (see text)



*New Post's
Concern
Area*



DISTRICT DE COCHRANE DISTRICT



Miles 0 10 20
 Kilometres 0 10 20

LEGEND/LÉGENDE



1

OPTION 1

AREA BOUNDARY

AREA NUMBER (see text)



*New Post's
Concern
Area*

Traditional Land Use Area Concerns

The New Post Band is specifically concerned with the future use of land within the traditional New Post Land area. From statements and discussions at the General Band seminar and on subsequent occasions, specific concerns have been identified regarding the conservation and development of the natural resources reserved under the provisions of the Treaty.

The plan states that trapping will be encouraged to expand to quota levels in each of the three designated areas of concern to the Band. Within the proposed New Post Creek/Little Abitibi Park area, trapping will be allowed to continue pending the completion of a parks Master Plan.

The New Post Band is in favour of sound management Practices that preserve a healthy self sustaining beaver population. Members of the Band have expressed concern that survey techniques used to ascertain beaver populations may be in error by a sufficient margin to have a negative effect on the stocks through the establishment of artificially high quotas. Some Band members believe that on occasion dead beaver houses have been counted as live houses by aerial surveyors. Aerial surveying maybe appropriate for the establishment of population estimates over large area but it is felt that for smaller areas such as the Traditional New Post Trapping Area, greater accuracy is required. Traditional conservation methods, they may fall short of the established quota and that their continuing possession a licence to trap that area maybe jeopardized.

New Post members are also concerned that outsiders, particularly status Indian trappers from Quebec have been brought in to the area to trap on New Post's traditional grounds. In one incident, outsiders went trapping within the boundaries of the reserve itself. The Band believes that the Ministry of Natural Resources has actively encouraged the importation of outside trappers into the area.

The New Post Band is concerned that traplines within their traditional land area be preserved for the use and benefit of future New Post trappers. The elders want their grandchildren and future descendants to be able to trap the traditional lands in years to come. The Band has noted that traplines have on occasion been bought and sold as a commodity to the detriment of the collective rights of the Band. Therefore, the New Post Band recommends that all present and future use of the traditional land area be reserved for New Post members and that the use of the area by outsiders either Indian or Non-Indians be subject to the prior right of the New Post Band.

The Band has noted that the population of beaver within any area is related to population throughout a much larger watershed area. There are annual movements of beaver into and out of areas due to population pressure, habitat and other environmental factors. Therefore, the Band feels that disruptions to the environment in one area may affect beaver stocks in another area. The Band is concerned that the management of land for the primary benefit of the forest industry both within and outside of the traditional New Post area may have negative impacts on fur bearing species and other wildlife within the traditional area. Cutting practices and regeneration practices which lead to the suppression of certain species are of particular concern. While the plan states that forest practice will be governed by Approved Operating Plans which will contain specific guidelines for the protection of other values, the lack of any published examples of such specific guidelines is not reassuring. While the plan does make reference to the need for the maintenance of significant fish and wildlife populations, and adopts a strategy for protecting and managing fur-bearer habitat, it fails to indicate how the requirements of animal species maintenance will be reconciled with the requirements of the forest industry.

The Strategic Land Use Plan for Northeastern Ontario has stated, that, as a general guide, forest reserves may be established up to 120

metres around the shores of larger lakes (40 hectarent) and 30 metres of trout stream which double as wildlife cover. There is no indication that reserves will be required for smaller lakes, beaver ponds or streams which do not contain trout. There is no indication in the plan as to how these minimal reservations will be enforced.

Though, the New Post Band is aware that populatons of large game species, paricularly moose, are not spatially static and that animals will move over large areas in response to natural and man made foctors, the Band, nevertheless, feels that special policies and practices should be developed for moose management within their traditional land area. The Band supports the statement in the Northeastern Ontario Strategic Plan that "there can be no appreciable loss of hunting area or habitat such as concentration areas, aquatic feeding site, and mineral licks are particularly important to maintaining high moose densities. These special habitats and to a general degree all moose range, will have to be protected and managed more vigourously than currently practiced." (N.E.W. S.L.U.P. Pg. 35)

The Cochrane Plan suggests that a reduction in the number of hunters and active habitat mangement may be required to increse moose populations. The New Post Band accepts this statement and believes that mosse hunting within its traditional land area should be restricted to the members of the New Post Band. Non-Indians hunting within this traditional area should be limited to those authorized by the New Post Band and accompanied by a status Indian guide also authorized by the New Post Band. Thus, the number and the compostion of the harvest within the traditional area could be closely controlled while at fee game time ensuring a measure of economic benefit would agree to the Band.

Within the area described by New Post Band as their traditional land area, cottaging is not propcsed for that postion which falls within the Northern Resource and Commercial Recreation Area and within the Little Abitibi/New Post Creek area. The Band is in agreement with this

policy. However, in that portion that falls within the Southern Resource area, inland remote cottaging is permitted in the townships of Pinard, Avon, Homuth, Adanar and Menapia. In addition, the Abitibi, Frederick, Driftwood, and Onakwana River Area will permit the development of up to 40 remote cottages - particularly between Gardiner and Island Falls. The New Post Band feels that cottage development is incompatible with the use of lands for traditional activities. There is a particular concern that hunting in parts of Menapia Twp. will be negatively influenced.

The Band is also concerned that commercial tourism policies will encourage the development of "outpost camps, lodges, marinas and youth camps," along the Abitibi River in the townships of Pinard, Avon, Bouransa and Tolmie. It is felt that this type of development is not consistent with the safeguarding of the Band's traditional right to hunt, trap and fish throughout this area. Similarly, policies for the Northern Resource and commercial Tourism should discourage tourist-oriented development in the area between New Post Creek/Little Abitibi River and the Abitibi River. If any exploitation of the areas tourist potential is to take place it must be at the option of the New Post Band.

The New Post Band has a great concern that the proposed Little Abitibi/New Post Creek Waterway Park will have a negative effect on the Band's right to hunt, trap and fish. It is agreed that no further commercial development take place within that area. While the Band is not opposed to the protection of the Natural environment implicit in Provincial Park Status, it cannot stress too strongly that it is very much opposed to the "taking up of land for other purposes" that Parks Status carries with it. The Band does not wish to see its traditional rights in this area diminished.

Finally, the New Post Band must register its concern that the future Hydro electric potential mentioned in the back ground document coupled with the failure of the explicitly the Cochrane district Land Use Plan to deal with the problems and conflicts inherent in Hydro electric

development. the Northeastern Ontario Strategic Land Use Plan state that "the six most feasible undeveloped sites of hydroelectric potential within the planning Region could provide an additional 355 megawatts of average energy output. These sites exist on the Abitibi, Mattagami, Mineasagi and Moose Rivers." (N.E. S.L.U.P. Pg. 14)

Certainly, the Cochrane District Plan should deal with developments of that magnitude in a forthright manner and wherever "interim uses on lands and waters with significant energy potential which would not preclude their future use for energy production" have been encouraged, the Plan should say as much. The Northeastern Ontario Strategic Use Plan clearly implies that Socio-economic and environmental concerns of a local nature will not be allowed to stand in the way of Hydro electric development: "it should not expect that their desires will always be fully met. In some cases it may be necessary to give priority to national or provincial concerns. An example may be energy requirements." (N.E. S.L.U.P. P. 14) These are ominous words for the New Post Band since they, alone among other bands in the Treaty 9 area, have for the past 60 or so years already experienced the effects of placing national and provincial priority on "water power development".

General concerns With the Land Use Plan

The Ministry of Natural Resources has adopted a top-down rather than bottom-up approach to planning. The approach can be characterized as the systematic reduction of general concepts and broad goals into specific, measurable targets. "Planning decisions will be made through a hierarchy of planning areas where broad decisions are made before detailed decisions.... Through this process, regionally significant prior to the initiation of more detailed district plans." (N.E. S.L.U.P. P. 14) Therefore district planning process involves a closer examination of resource to see if the district's share of a pre-set target can be achieved. If there is a mismatch between the expectations of the target and the ability of the land base to accommodate the target, then

either 1) revision must be made to the target, or 2) adjustments must be made to the district allocations of land to competing uses.

A bottom-up approach, on the other hand, could be characterized as successive integration of plans built up from detailed capability information at the local level. "There are two approaches to land-use planning of broad areas. Firstly, a "mass action" approach may be organized. ... This approach will present, in very general terms, the present land use patterns of the broad area surveyed. It will also indicate broad policies of recommended land use. However, because of detailed information on basic ecology and land use practices, the findings of this type of survey will have little or no application in the planning of land use and in the administration and management of land at the local level. Furthermore, the fundamental, research which underlies this type of survey will be inadequate because the significance of the interrelationships of factors within the local patterns cannot be adequately considered. ... Secondly, there is an approach which begins with the establishment of local reference areas... On these, a detailed study is made of the relationships of the total complex of factors which bear upon the problem of proper land use." (G.A. Hills, the Glackmeyer Report of Multiple Land Use Planning, Ontario Dept. of Lands and Forests, 1960 Pg. 41)

The danger in the first approach, or the top down approach is that targets will not be revised when a discrepancy exists between capacity and demand. It can be expected that a hierarchical, top down flow of policies, objectives and targets carries with it a certain amount of force or inertia which may not be easily countered. Consequently, the targets for a particular land use will be made to fit within the land base of the district. One way to expand the effective land base is to permit more than one activity to take place on the same area - multiple land use. A multiple land use strategy depend for its success on the several land uses being compatible: "it is necessary to understand the

concept of conflict regarding the uses required to meet the objectives. Uses that are in conflict are those that must be separated spatially. Hence, if one use is permitted the other cannot occur and a trade-off must be made. Some conflicts are absolute or total and others are partial. Wilderness preservation and forest operations are in total conflict whereas cottage use and forest operations could be in partial conflict." (Draft, Class Environmental Assessment for Land Use Planning Process of the Ontario Ministry of Natural Resources, April, 1978 P.12)

In the Cochrane District Land Use Plan, the area designated as the Abitibi, Fredrickhose, Driftwood and Onakwana Rivers Area is modestly define as including 125 metres on "each side". The area is described briefly: "generally the river banks in this area are steep and composed of relatively unstable soils such as clay." Certainly, it would seem from this description that erosion in this area would warrant special measures over and above a more 125 metres restruation. Certainly, a long history of river Basin planning by the Conservation Authorities under the aegis of the Ministry of Natural Resources would argue for stricter measures.

The multiple Use strategy as evidenced in the Cochrane Plan the following uses are among those permitted in this area which has recreation as its primary use: Mining, Aggregate Extraction, Forestry, Agriculture, Cottaging, Commercial Tourism, and Roads. If all of this is permitted to take place within 125 metres of the shoreline, of a sensitive area then where is the separation of uses required by a successful multiple use strategy? Acceptance of multiple use strategy depends on either a clear spatial separation of incompatible uses with suffiecent buffering between uses or on a clear and precise defination of the conditions governing the performance of various users in order that potentially incompatible uses can be made to take place together without predjudice to each other. In the absence of either separation or clear performance criteria it must be assumed that certain uses will be dominant uses.

7

Forestry and aggregate extraction and intrinsically dominant that more passive land uses will remain viable if these uses are permitted.

The Cochrane District Land Use Plan, however, postpones the debate and asks the public to accept a matter of faith that uses will be compatible in the future. The plan does not specify the policy, criteria, or guidelines which will govern the performance of dominant use. Forstead, the plan alludes to future planning and administrative activities. Such phases as (mining) "operating guidelines will be reflected in licences and permits", (forestry) "operating plans will contain specific guidelines for the protection of other resource and recreation values," and (roads) "will be permitted to approach the rivers where a need can be demonstrated", are examples of the generalities the plan has to offer.

It is evident that the Cochrane District Land Use Plan is avoiding any real debate on the compatibility of land uses. This is consistent with previous Ministry thinking: "the planning exercise itself has only a minimal impact. It is the implementation of the plan... that [has] appreciable impacts. The impacts resulting from the land management activities such as forest management, cottaging, Provincial Parks and Various forms of Crown Land recreation are analysed in the environmental assessments prepared specifically for them. ... From the perspective of a land use plan, then, the effort to minimize undesirable impacts comes in designating areas". (Draft Class E.A. for land use Planning 1978, Pg. 59). It would appear that the planning process is not meant to be a forum for the resolution of land use conflicts. It would appear that the existence of an Environmental Assessment Process is being used as an excuse for the postponement of debate until a stage is reached at which previous planning decisions rule out any possibility of meaningful change. It would appear that the virtue of the comprehensive overview that regional and district planning has to offer is to be squandered by the reduction of the debate to a spatially restricted

examination of specific projects and undertakings.

The New Post Band is not convinced that its fundamental rights to enjoy the natural resources of its traditional land area are sufficiently protected by the present planning process.

Recommendations of the New Post Band

The New Post Band wishes to make the following recommendations to the Royal Commission on the Northern Environment:

2) The cochrane Land Use Plan should be amended so as to affirm the existence of a special area where in traditional land use activities, specifically hunting, fishing and trapping are considered the primary land uses.

3) This special area should be considered as a secondary planning area which could be called a traditional land use area.

4) Subject to specific discussions, the traditional land use area should be delineated as all of the Townships of Pinard, McWhinney, Maund, Avon, Bourassa, McAlpine, Homuth, Tolmie, Agassiz, Adanac, Menapia, and Ireland and parts of the Townships of Parliament, Kineras, Harewood, Marrear, Agate, Hardman, Lobster and Geniah, Marvin, Thoining, Inglis. the traditional land use area identified by the New Post Band is shown on the accompanying map.

5) A secondary a traditional land use plan should be produced for this area and special policies, objectives, guidelines and criteria be drawn up.

1) The rights of the New Post people to use and enjoy certain natural resources includes the right to ensure that the environment is managed, for the benefit of those resources and the right to ensure that traditional lands are not taken up for other purposes.

6) For the purposes of preparing, implementing monitoring and amending the proposed traditional Land Use Area plan, a joint planning and development board be formulated with representation composed of the Chief and Council of the New Post Band and the M.N.R.

7) This joint planning board would be responsible for reviewing all licences, permits, management plans, operating plans and any other proposals, propositions and schemes within the traditional land use area.

8) The joint planning board should appoint an Indian Conservation/Development control officer to monitor the activities of both traditional and non-traditional resources users within the traditional land use area to ensure conformance with the intent of the plan.

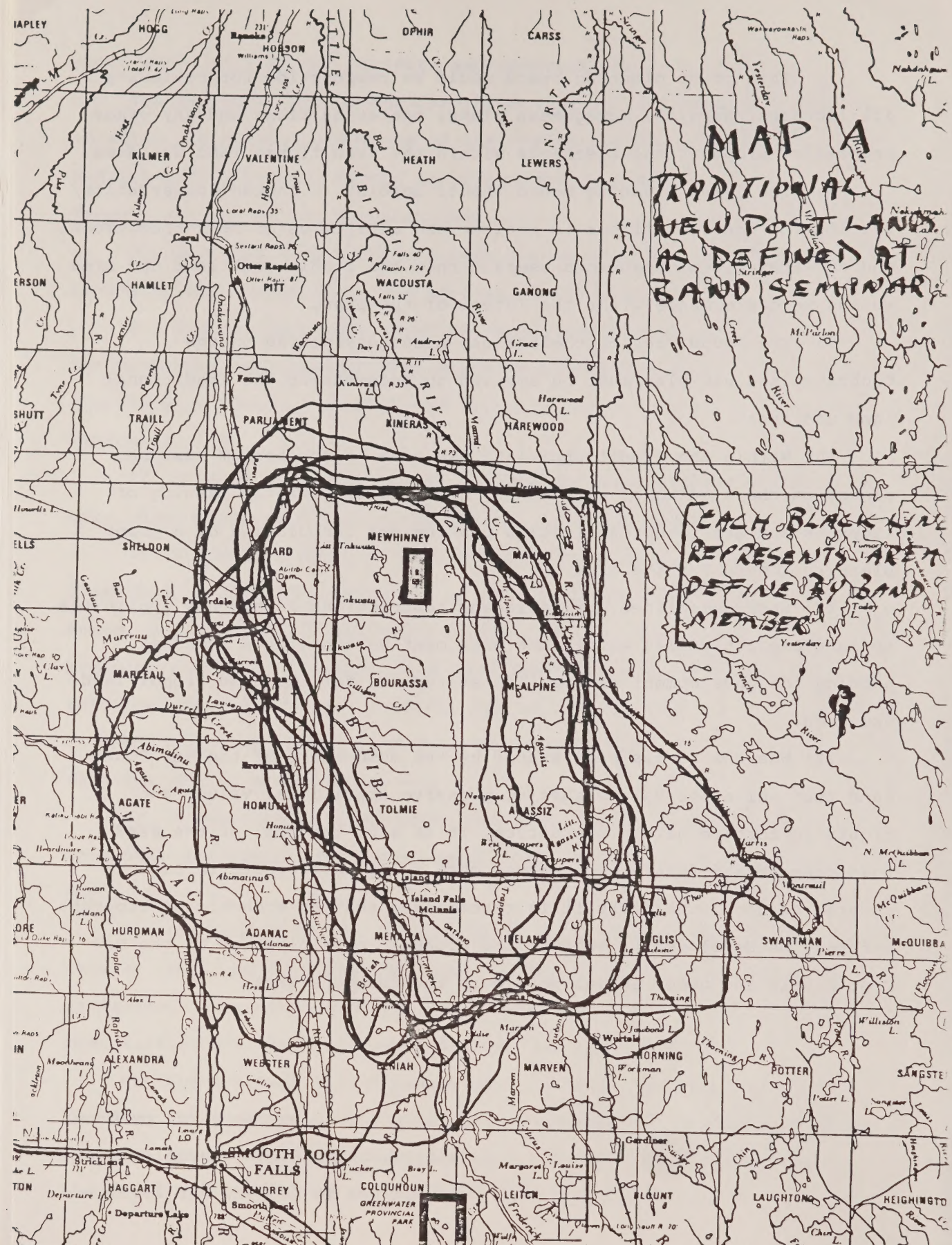
9) The boundaries of the land use areas designated in the Cochrane land use plan must be amended to accommodate the traditional land use area.

10) Within the traditional land use area, a moratorium must be placed on the signing of agreements, granting of permits, issuing of licences and other such activities pending the formulation of a joint planning board for the area.

11) Such guidelines, criteria and restrictions as are now applicable to land use activities within the area must be considered interim pending the development of specific statements for the traditional land use area.

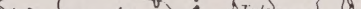
12) Whereas it has been stated by the membership of the New Post Band that while the Band wishes to preserve traditional values and rights to certain natural resources, it is also the goal of the Band that present and future generations more fully participate in the general economy, therefore it is recommended that an economic development strategy be developed to enhance the economic participation of the New Post people and other Indian people in the Cochrane area.

TEACH BLACK LINE
REPRESENTS AREN
DEFINE BY BAND
MEMBER



SPECIAL CONCERTS
AREAS

Moose, Deer
Caribou
Traditionally
Hunted Here



TRADITIONAL WATERFOLDS AREA

600

GRAVEYARD

TRAPPING
BEAVER, MARTEN
MINK, LYNX, OTTER

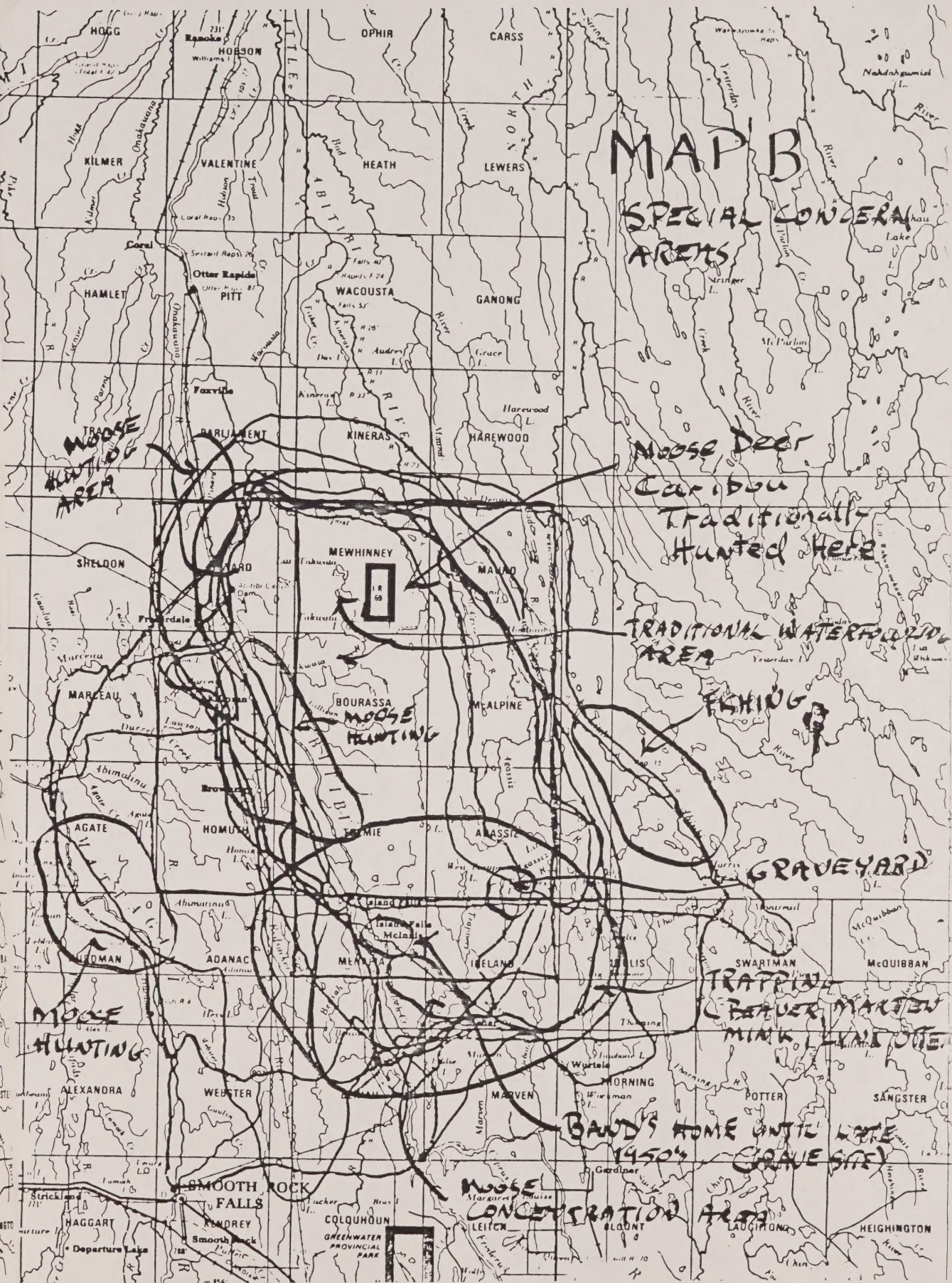
BAWD'S HOME UNTIL LATE
1950's - GRAVE SITE

HUGE
Margaret Louise
CONCENTRATION
LEITCH — BLOUNT

MOOSE HUNTING AREA

BOURASSA
MOOSE
HUNTING

MOOSE
HUNTING



MAP C

